IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.79 OF 2006
IN
APPEAL FROM ORDER NO.297 OF 2004

Smt.Phelomena Peris . ..Applicant.

V/s.

Clement Joh D'Souza & Anr. ..Respondents.

And

Mrs. Meena Shamdas Gurnani. ..Applicant.

Mr.V.S.Kapse for applicant.

Ms.Malvankar for respondents.

CORAM: A.M.KHANWILKAR,J

DATE : FEBRUARY 10, 2006.

P.C. :

1. Heard counsel for the parties.

2. Application deserves to be allowed in terms of prayer clause (a), (b) and (c). Counsel for the respondents however, has opposed this application on the argument that all the heirs of the original appellant have not been brought on record. It is not in dispute that similar objection was taken before the trial Court. After considering rival submission the same was rejected. The reason is that the applicant is the sole beneficiary of the registered

Will left by the original appellant. None of heirs of the original appellant came forward to participate in the proceedings or to oppose the application which was taken out by the applicant before the trial Court. The same position obtains even now. It is not in dispute that the order passed by the trial Court was allowed to become final. In the circumstances, this application is allowed in terms of prayer clause (a) to (c). Amendment to be carried out within two weeks.